

Landscapers & New Jersey Sales Tax

Publication ANJ-4

Registration

New Jersey law requires all businesses to register with the State for tax purposes. To register, a **Business Registration Application (Form NJ-REG)** must be filed. You will receive a **New Jersey Certificate of Authority (Form CA-1)** if you have indicated on your application that you will collect sales tax or purchase materials for resale. A Public Records Filing may also be required depending upon the type of business ownership. For more information on Public Records Filing call 609-292-9292.

Contractors

For New Jersey sales and use tax purposes, contractor means anyone in the business of working on the land and/or buildings of another. Landscapers are contractors. A contractor **always** pays sales tax on the materials and supplies purchased for erecting or building or otherwise improving, altering or repairing real property. If the contractor's bill to the property owner separately states the cost of materials and labor, sales tax may be charged on the labor portion only, if the labor is subject to tax.

Improvements to Land & Buildings

When the work completed on a customer's property results in a **Capital Improvement** (i.e., the work substantially extends the useful life of the property or increases its capital value), the property owner should not be charged sales tax for either materials or labor. The contractor pays the sales tax on the materials and the property owner should issue a **Certificate of Capital Improvement (Form ST-8)** to the contractor.

EXAMPLES OF CAPITAL IMPROVEMENTS

- **Planting:** trees, shrubs, hedges, plants, etc.
- **Land:** terracing, clearing and filling
- **Lawns:** laying new sod and seeding a new lawn
- **Permanent Structures:** fences, walls and patios

Repairs & Maintenance

When a repair is made to the property of a customer, the contractor must charge sales tax on the labor portion of the bill. Repairs and maintenance do not add to the value of the property but only maintain the existing value. **NOTE:** A landscaper must charge sales tax on labor when performing repairs and maintenance. If the charges for materials and labor are not listed separately on the invoice, the contractor must collect sales tax on the entire invoice.

EXAMPLES OF REPAIRS OR MAINTENANCE

- **Trees:** pruning, spraying, bracing, cabling, grafting, coppicing, suckering and feeding
- **Controlling:** weeds and insects
- **Soil:** aerating, sterilizing and mulching
- **Repairing:** walkways, patios, fountains and walls
- **Lawn:** reseeding, fertilizing and mowing

Service Contracts

A contract which provides for the regular care of property such as lawns, gardens or plants at a fixed price is subject to sales tax.

Subcontractors

A subcontractor must pay sales tax on all the materials and supplies purchased for erecting or building or otherwise improving, altering or repairing real property. The subcontractor does not charge the prime contractor sales tax on either the materials purchased or the labor charge. If sales tax is due on the subcontractor's labor (for repairs or maintenance), the prime contractor must collect it from the property owner.

Tools/Equipment

Tools and equipment purchased or rented by a landscaper, contractor or subcontractor are subject to sales tax even if the equipment is used on a job for an exempt organization.

Nurseries

Nurseries may function as wholesalers, retailers, growers, landscape contractors, or offer a combination of these services. New Jersey sales tax responsibilities will differ according to the type of services offered.

WHOLESALE AND RETAILERS

When purchasing materials for resale, the buyer, who is registered with the State, may issue a **New Jersey Resale Certificate (Form ST-3)** to the vendor. The vendor will not charge sales tax on the purchase.

When materials are sold to landscape contractors and homeowners, the transaction is a retail sale and sales tax **must** be collected and remitted to New Jersey. However, when materials are sold to other nurseries for resale, the purchaser, who is registered with the State, issues a completed **New Jersey Resale Certificate (Form ST-3)** to the vendor and will not be charged sales tax on the purchase.

Qualified Out-of-State Vendors: Qualified out-of-State vendors may make tax exempt purchases in New Jersey of goods and services purchased for resale. When the qualified out-of-State vendor carries the goods away from the point of sale, or sends its own vehicle or messenger to pick them up in New Jersey, the only acceptable resale certificate for a qualified out-of-State vendor to use is the **Resale Certificate for Non-New Jersey Vendors (Form ST-3NR)**. The ST-3NR requires the person picking up the merchandise to provide acceptable identification (i.e., driver's license of any state in the United States, major credit card including photograph, or any identification card which includes a number **and** a photograph **and** the bearer's address). "Qualified out-of-State vendors" are vendors that (1) are not registered with New Jersey, (2) are not required to be registered with New Jersey *and* (3) are registered with another state. An out-of-State vendor may not use an ST-3NR unless the purchase qualifies for exemption under New Jersey law. Therefore, out-of-State contractors may not make exempt purchases in New Jersey of materials to be used on their customers' real property, even if they might qualify for the resale exemption under the laws of their own state.

GROWERS

When materials are sold to nurseries for resale, sales tax need not be collected provided the purchaser issues a completed **New Jersey Resale Certificate (Form ST-3)**. However, when materials are sold to landscape contractors and homeowners, sales tax **must** be collected and remitted to the State. You should not accept a resale certificate from someone that does not operate a facility engaged in making sales at retail.

The following are examples of non-food items sold at retail that would require a grower of nursery stock to register as a vendor and collect sales tax:

- All nursery stock • Animal bedding • Christmas trees • Compost • Mulch • Wreaths
- Grave blankets • Holly branches • Pine cones • Needled evergreen branches • Gourds
- Painted pumpkins

NURSERY & LANDSCAPING SERVICES When the nursery/landscaper installs materials (shrubs, trees, fountains, etc.) which were grown by the nursery/landscaper or purchased from another nursery, the nursery/landscaper is acting as a contractor and must remit a 6% use tax to the State of New Jersey based on the cost of the materials used. Sales tax on these items should not be charged to the property owner. A property owner may issue a **Certificate of Capital Improvement (Form ST-8)** and be exempt from paying sales tax on the labor when the work performed results in a capital improvement.

Out-of-State Purchases & Sales

Materials and supplies purchased by landscape contractors in another state are subject to a 6% use tax when the materials are brought into New Jersey, if no sales tax was paid to the state where they were purchased. If the tax paid was less than New Jersey's 6% and the other state has sales tax reciprocity with New Jersey, the difference must be remitted to the State of New Jersey as use tax.

Materials and supplies purchased in New Jersey by out-of-State landscapers and nurseries for use out-of-State are not subject to New Jersey sales or use tax if the materials are delivered out-of-State by the seller. If the materials are picked up in New Jersey, the sale is subject to sales tax unless the purchaser is a "qualified non-New Jersey vendor," in which case the purchaser may issue a **Resale Certificate for Non-New Jersey Vendors (Form ST-3NR)** to exempt the purchase from sales tax. Out-of-State nurseries which are registered in New Jersey may purchase materials in New Jersey for resale with the use of a **New Jersey Resale Certificate (Form ST-3)**.

For More Information

For more information on landscapers and New Jersey sales tax, contact the Division's Customer Service Center at 609-292-6400, e-mail us at taxation@tax.state.nj.us, or write to:

NEW JERSEY DIVISION OF TAXATION
INFORMATION AND PUBLICATIONS BRANCH
PO BOX 281
TRENTON NJ 08695-0281

Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>